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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,416	02/12/2002	Mark A. Flannery	COTS-Utility-1	7002

22476 7590 03/08/2004

HAUGEN LAW FIRM
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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,416

Applicant(s)

FLANNERY ET AL.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bochmann (U.S. Patent No. 4,150,820).

Bochmann teaches a collapsible open top swing, comprising.

a frame 10, wherein the frame includes a pair of side portions, wherein the frame includes a seat disposed between the side portions of the frame and pivotally engaged to the side portions of the frame via hangers on a swing axis, wherein each of the side portions of the frame includes a lower section and an upper section, and wherein the frame is free of cross supports extending between the upper sections of the frame such that the baby swing is an open top baby swing whereby a caregiver can place a child into the seat from above the seat from above an uppermost portion of the frame without interference from a portion of the frame, wherein each of the side portions of the frame

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includes a pair of legs, wherein the legs are swingable relative to each other on a leg axis between an open position and a closed position, wherein in the open position the legs are spread apart for supporting the collapsible open top swing upon a surface, wherein in the closed position the legs are relatively adjacent to each other to minimize space occupied by the collapsible open top swing and to maximize ease of carrying and storing the collapsible open top swing, and wherein the swing axis is offset from the leg axis to visually separate a collapsibility function from a swing function while maintaining a sturdy and safe open top swing, wherein one of the legs of each of the side portions of the frame includes a proximal end and a distal end, wherein the distal end is disposed near the surface on which the collapsible open top swing rests, wherein each of said legs extends upwardly from said distal end to a position adjacent the leg axis and subsequently to said proximal end that is located at a position adjacent the swing axis, wherein one of the legs of each of the side portions of the frame is a front leg 10a, wherein a leg axis unit that houses the leg axis is engaged at a first position on the front leg, and wherein a swing axis unit that houses the swing axis is engaged at a second position on the front leg wherein one of the legs of each of the side portions of the frame is a front leg, wherein said front leg includes a proximal end and a distal end, wherein the distal end of the front leg is disposed near the surface on which the collapsible open top swing rests, and wherein the swing axis and leg axis are adjacent to the proximal end of the front leg, wherein the seat defines a front and rear of the collapsible open top swing, and wherein the swing axis is disposed rearwardly of the leg axis, wherein the seat defines a front and rear of the collapsible open top swing, and

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wherein the swing axis is disposed rearwardly and upwardly of the leg axis. (See Fig. 2), wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the rear legs, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the front legs.

Claims 1-2 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fair et al (U.S. Patent No. 5,769,727).

Fair et al teaches a collapsible open top swing, comprising a frame 22, wherein the frame includes a pair of side portions, wherein the frame includes a seat disposed between the side portions of the frame and pivotally engaged to the side portions of the frame via hangers on a swing axis, wherein each of the side portions of the frame includes a lower section and an upper section, and wherein the frame is free of cross supports extending between the upper sections of the frame such that the baby swing is an open top baby swing whereby a caregiver can place a child into the seat from above the seat from above an uppermost portion of the frame without interference from a portion of the frame, wherein each of the side portions of the frame includes a pair of legs, wherein the legs are swingable relative to each other on a leg

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axis between an open position and a closed position, wherein in the open position the legs are spread apart for supporting the collapsible open top swing upon a surface, wherein in the closed position the legs are relatively adjacent to each other to minimize space occupied by the collapsible open top swing and to maximize ease of carrying and storing the collapsible open top swing, and wherein the swing axis is offset from the leg axis to visually separate a collapsibility function from a swing function while maintaining a sturdy and safe open top swing, wherein one of the legs of each of the side portions of the frame includes a proximal end and a distal end, wherein the distal end is disposed near the surface on which the collapsible open top swing rests, wherein each of said legs extends upwardly from said distal end to a position adjacent the leg axis and subsequently to said proximal end that is located at a position adjacent the swing axis (See column 1, lines 40-48), wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the rear legs, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the front legs.

Claims 1-2, 4, 7, 10-11, and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Myers et al (U.S. Patent No. 6,500,072).

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Meyers et al teaches a collapsible open top swing, comprising. a frame 22, wherein the frame includes a pair of side portions, wherein the frame includes a seat disposed between the side portions of the frame and pivotally engaged to the side portions of the frame via hangers on a swing axis, wherein each of the side portions of the frame includes a lower section and an upper section, and wherein the frame is free of cross supports extending between the upper sections of the frame such that the baby swing is an open top baby swing whereby a caregiver can place a child into the seat from above the seat from above an uppermost portion of the frame without interference from a portion of the frame, wherein each of the side portions of the frame includes a pair of legs, wherein the legs are swingable relative to each other on a leg axis between an open position and a closed position, wherein in the open position the legs are spread apart for supporting the collapsible open top swing upon a surface, wherein in the closed position the legs are relatively adjacent to each other to minimize space occupied by the collapsible open top swing and to maximize ease of carrying and storing the collapsible open top swing, and wherein the swing axis is offset from the leg axis to visually separate a collapsibility function from a swing function while maintaining a sturdy and safe open top swing, wherein one of the legs of each of the side portions of the frame includes a proximal end and a distal end, wherein the distal end is disposed near the surface on which the collapsible open top swing rests, wherein each of said legs extends upwardly from said distal end to a position adjacent the leg axis and subsequently to said proximal end that is located at a position adjacent the swing axis, wherein one of the legs of each of the side portions of the frame includes a proximal

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end and a distal end, wherein the distal end is disposed near the surface on which the collapsible open top swing rests, wherein each of said legs extends upwardly from said distal end to a position adjacent the leg axis and subsequently to said proximal end that is located at a position adjacent the swing axis, wherein the leg axis runs in a first plane vertical to a surface on which the collapsible open top swing rests, one of the legs of each of the side portions of the frame is a rear leg, wherein the rear leg includes a distal end making contact with the surface, wherein the distal ends of each of the legs is in a second plane vertical to the surface the swing axis, about which the seat swings, is disposed between the first and second planes such that a center of gravity of a baby swinging in the seat is between the first and second planes, wherein one of the legs of each of the side portions of the frame is a front leg and wherein the other of the legs of each of the side portions of the frame is a rear leg, wherein each of the front and rear legs includes a proximal end, and wherein when the front and rear legs are swung towards each other and are stowed in a compact position, the proximal end of the front leg extends beyond the proximal end of the rear leg, wherein a distance between the proximal end and distal end of the front leg is about equal to a distance between the proximal end and distal end of the rear leg, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the rear legs, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the

collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the front legs, wherein said support member includes first and second portions running rearwardly and a third portion traversing the first and second portions, and wherein the third portion is disposed directly vertically underneath a portion of the baby seat to provide stability for the collapsible open top swing..

Claims 1-2 and 12-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Malhstedt et al (U.S. Patent Application Publication No. 2003/02033761 A1).

Malhstedt et al teaches a collapsible open top swing, comprising a frame 20, wherein the frame includes a pair of side portions, wherein the frame includes a seat disposed between the side portions of the frame and pivotally engaged to the side portions of the frame via hangers on a swing axis, wherein each of the side portions of the frame includes a lower section and an upper section, and wherein the frame is free of cross supports extending between the upper sections of the frame such that the baby swing is an open top baby swing whereby a caregiver can place a child into the seat from above the seat from above an uppermost portion of the frame without interference from a portion of the frame, wherein each of the side portions of the frame includes a pair of legs, wherein the legs are swingable relative to each other on a leg axis between an open position and a closed position, wherein in the open position the legs are spread apart for supporting the collapsible open top swing upon a surface,

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wherein in the closed position the legs are relatively adjacent to each other to minimize space occupied by the collapsible open top swing and to maximize ease of carrying and storing the collapsible open top swing, and wherein the swing axis is offset from the leg axis to visually separate a collapsibility function from a swing function while maintaining a sturdy and safe open top swing, wherein one of the legs of each of the side portions of the frame includes a proximal end and a distal end, wherein the distal end is disposed near the surface on which the collapsible open top swing rests, wherein each of said legs extends upwardly from said distal end to a position adjacent the leg axis and subsequently to said proximal end that is located at a position adjacent the swing axis, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and wherein said rear leg curves from the proximal end to the distal end to provide a swept appearance to said rear leg, wherein one of the legs of each of the side portions of the frame is a front leg, wherein said front leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the swing axis, and wherein said rear leg curves from the proximal end to the distal end, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the rear legs, wherein one of the legs of each of the side portions of the frame is a rear leg, wherein said rear leg includes a distal end at the surface on which the

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collapsible open top swing rests and a proximal end near the leg axis, and further comprising a support member running to and between the distal ends of the front legs, wherein said support member includes first and second portions running rearwardly and a third portion traversing the first and second portions, and wherein the third portion is disposed directly vertically underneath a portion of the baby seat to provide stability for the collapsible open top swing.

Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Prior art does not teach that the rear leg extends beyond the front leg in the folded, collapsed position as defined in claims 8 and 17.

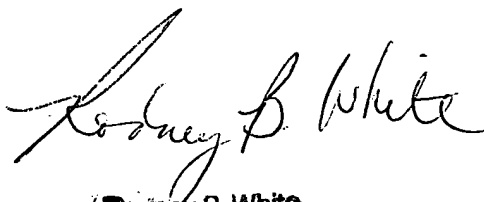
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foster, Mitchell et al, Saint et al, Lauro et al, Flannery et al, Fair et al, Sitarski et al, Kelly et al, Armbruster et al, and Meade, . teach swings similar to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
March 4, 2004



Rodney B. White
Patent Examiner